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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/922,487	08/03/2001	Christopher I. Halliday		7011

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07/05/2005

Christina M. Halliday
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EXAMINER

BATES, KEVIN T

ART UNIT	PAPER NUMBER
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2155

DATE MAILED: 07/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/922,487

Applicant(s)

HALLIDAY, CHRISTOPHER I.

Examiner

Kevin Bates

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 41-43, 45-53, 55-64 and 72-81 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 41-43, 45-53, 55-64 and 72-81 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1-13-05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Response to Amendment

This Office Action is in response to a communication made on April 12, 2005.

Claims 1-40, 44, 54, and 65-73 have been cancelled.

Claims 41, 43, 47-52, 55, 58-64, and 74-75 have been amended.

Claims 76-81 have been added.

Claims 41-43, 45-53, 55-64, and 72-81 are pending in this application.

The Information Disclosure Statement was received on January 13, 2005 and has been considered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 41-43, 45, 47-48, 50-53, 55-56, 58, 61-64, and 71-75 are rejected under 35 U.S.C. 103(a) as being unpatentable over Robbins (6317882) in view of Wugofski (6507951).

Regarding claim 41, Robbins discloses a method of customizing a selection of selecting a station among a plurality of stations (Column 11, lines 12 – 31), comprising the steps of: receiving a plurality of stations (Column 11, lines 29 – 31), each station comprising a digitally encoded stream containing designations representative of a work of authorship over a global communication network, said global communication network

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having a plurality of stations; decoding a selected station from among the plurality of stations (Column 11, lines 13 – 22); comparing the decoded station with a user designated work of authorship to determine an indication that the user designated work of authorship is contained in the decoded station (Column 5, line 62 – Column 6, line 10); and alerting a user to a station that contains the user designated work of authorship (Column 5, lines 20 – 28), but Robbins does not explicitly that the global communication network is a satellite audio radio network. Wugofski discloses a time shifting system that combines many forms of media communication including audio/video satellite broadcasts (Column 4, lines 39 – 49). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Wugofski's teachings of combining many types of audio/video network communications in order to allow many types of communications to converge into one system, thus reducing the number of devices and connections that users have to keep track of (Column 2, lines 1 – 16).

Regarding claim 42, Robbins discloses that the step of comparing the decoded station with a user designated work of authorship further comprises the step of storing the designation representative of a work of authorship of the decoded station in a memory (Column 6, lines 43 – 51).

Regarding claims 43 and 52, Robbins discloses a method of selecting an audio or video digital broadcast among two or more audio or video digital broadcasts (Column 11, lines 12 – 31), comprising the steps of: receiving a digitally encoded stream of at least two broadcast stations over a global communication network (Column 11, lines 29 – 31), wherein at least one broadcast station from the broadcast stations contains a

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station designation of a work of authorship as an indication of a work of authorship contained in a signal from the broadcast station; decoding a broadcast station; providing a user designation of a work of authorship (Column 11, lines 13 – 22); storing the user designation of a work of authorship in a memory (Column 4, lines 15 – 19); comparing the user designation of a work of authorship with the station designation of a work of authorship at 0.01 second to 3 minute intervals (Column 5, line 62 – Column 6, line 10); alerting a user of desired content if a user designation of a work of authorship matches a station designation of a work of authorship (Column 6, lines 17 – 24), but Robbins does not explicitly that the global communication network is a satellite audio radio network. Wugofski discloses a time shifting system that combines many forms of media communication including audio/video satellite broadcasts (Column 4, lines 39 – 49). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Wugofski's teachings of combining many types of audio/video network communications in order to allow many types of communications to converge into one system, thus reducing the number of devices and connections that users have to keep track of (Column 2, lines 1 – 16).

Regarding claim 45, Robbins discloses the steps of providing and recording desired content (Column 6, lines 4 – 10).

Regarding claim 53, Robbins discloses a recording media for recording the user desired work of authorship in real time as it is provided over the global communication network (Column 6, lines 4 – 10).

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Regarding claim 61, Robbins discloses a method of selecting a radio channel (Column 11, lines 12 – 31), comprising the steps of: receiving one or more digital radio channels (Column 11, lines 29 – 31); comparing information on one or more of the received digital radio channels with a user designated work of authorship to determine whether the user designated work of authorship is or will be playing on one or more of the digital radio channels; and alerting a user to a radio channel that is or will be playing the user designated work of authorship (Column 6, lines 17 – 24), but Robbins does not explicitly that the global communication network is a satellite audio radio network. Wugofski discloses a time shifting system that combines many forms of media communication including audio/video satellite broadcasts (Column 4, lines 39 – 49). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Wugofski's teachings of combining many types of audio/video network communications in order to allow many types of communications to converge into one system, thus reducing the number of devices and connections that users have to keep track of (Column 2, lines 1 – 16).

Regarding claim 62, Robbins discloses the step of decoding a radio channel from among the one or more digital radio channels (Column 11, lines 12 – 20).

Regarding claim 63, Robbins discloses that the information compared with the user designated work of authorship is information from the decoded radio channel (Column 11, lines 12 – 20).

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Regarding claim 64, Robbins discloses that the information on the one or more radio channels comprises data indicating the particular work of authorship that is playing on one or more of the digital radio channels (Column 11, lines 12 – 20).

Regarding claim 74, Robbins discloses a receiver, comprising: a mobile general purpose computer adapted to receive one or more broadcast channels (Column 3, line 66 – Column 4, line 3), the general purpose computer also receiving data indicating what is being played on each channel (Column 4, lines 15 – 19); wherein the general purpose computer includes a memory, the memory includes a playlist of user designated works of authorship and the general purpose computer is adapted to change channels to a specific broadcast channel if the data indicating what is being played on any channel matches a user request designated work in the playlist (Column 6, lines 17 – 24), but Robbins does not explicitly that the global communication network is a satellite audio radio network. Wugofski discloses a time shifting system that combines many forms of media communication including audio/video satellite broadcasts (Column 4, lines 39 – 49). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Wugofski's teachings of combining many types of audio/video network communications in order to allow many types of communications to converge into one system, thus reducing the number of devices and connections that users have to keep track of (Column 2, lines 1 – 16).

Regarding claim 75, Robbins discloses a method of selecting a radio channel, comprising the steps of: using a receiver to receive one or more digital radio channels and data wherein the data indicates what work of authorship is being played on the one

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or more digital radio channels (Column 11, lines 29 – 31); inputting a designation of a desired work of authorship into a memory of a general purpose computer (Column 5, lines 63 – 66), wherein the general purpose computer monitors the data received by the receiver; using the general purpose computer to monitor the data; receiving an alert when the data matches the input designation of the desired work of authorship indicating that the desired work of authorship is being played on one or more of the digital radio channels (Column 6, lines 17 – 24), but Robbins does not explicitly that the global communication network is a satellite audio radio network. Wugofski discloses a time shifting system that combines many forms of media communication including audio/video satellite broadcasts (Column 4, lines 39 – 49). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Wugofski's teachings of combining many types of audio/video network communications in order to allow many types of communications to converge into one system, thus reducing the number of devices and connections that users have to keep track of (Column 2, lines 1 – 16).

Regarding claim 56, Robbins in combination with Wugofski discloses that the recording media includes a hard drive, and/or a floppy drive, and/or an optical drive (Wugofski, Column 4, lines 22 – 24).

Regarding claim 47, Robbins discloses that the station designation of a work of authorship is provided to the user prior to a broadcast of the work of authorship (Column 6, lines 17 – 24).

Regarding claim 48 and 58, Robbins discloses that the work of authorship is selected from a group consisting of songs, books, movies, movie shorts, educational works, sports events (Column 6, lines 57 – 59).

Regarding claim 50, Robbins discloses that the user has the ability to listen to the work of authorship (Column 3, line 66 – Column 4, line 3).

Regarding claim 51 and 60, Robbins discloses the step of saving work of authorship, in real-time, as the work of authorship is received (Column 6, lines 8 – 10).

Regarding claim 55, Robbins discloses a recording media for recording the user desired work of authorship in real time as it is provided over the global communication network (Column 6, lines 8 – 10).

Regarding claim 76, Robbins discloses a method of electing a radio channel, comprising the steps of: receiving information from a satellite that indicates which works of authorship are being broadcast on each channel of at least 100 radio channels (Column 11, lines 29 – 31, where the reference can work with any number of radio channels, as long as its receivable and addressable, its able to monitor it); comparing the information with a user designated work of authorship to determine whether the user designated work of authorship is playing on one or more of the audio radio channels (Column 5, lines 63 – 66); and alerting a user to change to the one or more of the radio channels playing the user designated work of authorship when the information of one or more of the at least 100 channels corresponds to the user designated work of authorship (Column 6, lines 17 – 24), but Robbins does not explicitly that the global communication network is a satellite audio radio network. Wugofski discloses a time

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shifting system that combines many forms of media communication including audio/video satellite broadcasts (Column 4, lines 39 – 49). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Wugofski's teachings of combining many types of audio/video network communications in order to allow many types of communications to converge into one system, thus reducing the number of devices and connections that users have to keep track of (Column 2, lines 1 – 16).

Regarding claim 77, the combination of Robbins and Wogufski discloses simultaneously receiving the information from a terrestrial repeater of the information from a satellite, wherein the information from the terrestrial repeater also indicated which works of authorship are being broadcast on each channel of at least 100 digital satellite audio radio channels (Robbins, Column 6, lines 39 – 47; Wogufski (Column 4, lines 39 – 49).

Claims 46 and 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Robbins in view of Wogufski as applied to claim 41-43, 45, 47-48, 50-53, 55-56, 58, 61-64, and 71-75 above, and further in view of Barton (6233389).

Regarding claims 46 and 57, Robbins does not explicitly indicate that the desired content is recorded in a MPEG or .WAV format. Barton discloses a data stream recording device that stores data in MPEG format (Column 2, lines 10 – 14). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Barton's teaching in Robbin's system in order to allow good compression with the

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data being stored, while allowing the user to be able to simultaneously view or listen to the data that is being stored (Column 1, lines 63 – 67).

Claims 49, 59, 79, and 80 are rejected under 35 U.S.C. 103(a) as being unpatentable over Robbins in view of Wogufski as applied to claims 41-43, 45, 47-48, 50-53, 55-56, 58, 61-64, and 71-75 above, and further in view of Wall (6055244).

Regarding claims 49 and 59, Robbins does not explicitly indicate that the designation of a work of authorship is selected from the group comprising titles, segments of titles, key phrases and key words. Wall discloses a radio data stream that includes an identifier which includes titles and other information (Figure 8; Column 4, lines 43 – 64)). It would have obvious to one of ordinary skill in the art at the time the invention was made to use Wall's teaching of data stream identifiers in Robbins system in order to have a more descriptive identifier contained with in the stream to display and inform the user in English what program he is listening to or reserving to record (Column 1, lines 31 – 42).

Claims 78 and 81 are rejected under 35 U.S.C. 103(a) as being unpatentable over Robbins in view of Wogufski as applied to claims 41-43, 45, 47-48, 50-53, 55-56, 58, 61-64, and 71-75 above, and further in view of Owens (6067278) (Applicant's IDS).

Regarding claims 78 and 81, the combination of Robbins and Wogufski does not explicitly indicate that the receiver for receiving radio channels are located in a vehicle or a car. Owens discloses a time shifting system which receives radio broadcasts and is able to record those broadcasts (Abstract) which is located in a vehicle such as an

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automobile. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Owen's disclosure of time shifting radio stations in an automobile in Robbin's system in order to perform the time shifting while driving in an automobile (Column 1, lines 8 – 11).

Response to Arguments

Applicant's arguments filed April 12, 2005 have been fully considered but they are not persuasive. The applicant argues that the combination of the references Robbins and Wugofski would be redundant because Robbins already discloses satellite television, that there would be no motivation, that the combination is in hindsight, and that the reference, Wugofski does not disclose satellite radio. The examiner disagrees, the references Robbins and Wugofski are classified into the same class, and deal with the same issue of time shifting broadcast information, so they are analogous pieces of art. Robbins discloses the possibility of having many different receivers such as AM/FM radio and satellite TV, but does not indicate a system which can perform time shifting to many different receivers at once which includes the audio/video direct broadcast satellite, were it just audio, its satellite radio. The motivation to combine is contained within the reference, Wugofski and that is the idea that today's users use many types of receivers and if they want to have a time shifting work for any or all of those receivers, the system should work for all those types of receivers and in an easy to use fashion (Column 2, lines 1 – 16). Also in response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be

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recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Bates whose telephone number is (571) 272-3980. The examiner can normally be reached on 8 am - 4:30 pm.

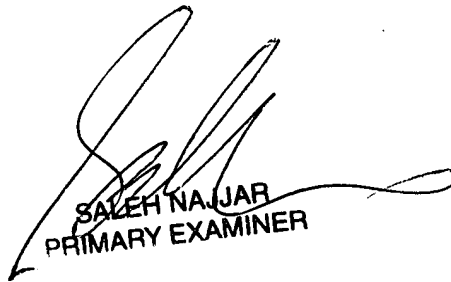
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on (571) 272-4006. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KB

June 30, 2005


SALEH NAJJAR
PRIMARY EXAMINER